Cr-152 (1)

Single Bench

IN THE HIGH COURT OF JUDICATURE CHHATTISGARH AT BILASPUR

(Arising out of the order dated 12.10.2001 passed in O.A. No.743/2001 (W.P.S. No. 3899/2005) by State Administrative Tribunal at Raipur Bench)

3

CONTEMPT PETITION NO. 130 **/ 2006**

PETITIONER : Smt Sunita Jha
W/o Shri C. M. Jha,
Aged about 43 years,
Asst. Professor (English),
Govt. Girls College, Durg,
District-Durg (CG)

P.R. No. 1935/06
Presented by Shri K. Shankaran
dated 07/7/2006

VERSUS

RESPONDENT : Y. S. Bele,
S/o Not Known,
Deputy Secretary,
Department of Higher
Education, Govt. Of C.G.,
DKS Bhawan,Raipur,
District-Raipur (CG).

CONTEMPT PETITION UNDER ARTICLE 215 OF THE CONSTITUTION OF INDIA READ WITH SECTION 12 OF THE CODE OF CONTEMPT OF COURTS ACT.

The petitioner named above begs to submit as under:

HIGH COURT OF CHHATTISGARH AT BILASPUR

SINGLE BENCH : HON'BLE MR. SATISH K. AGNIHOTRI, J.

WRIT PETITION (S.) NO.3899 OF 2005

Petitioner : Smt. Sunita Jha

versus

Respondents : State of C.G. and another

CONTEMPT PETITION NO.130 OF 2006

Petitioner : Smt. Sunita Jha

versus

Respondent : Y.S. Bele

Present : Mr. Maneesh Sharma, counsel for the petitioner in both the petitions.
Mr. V.V.S.Moorthy, Deputy Advocate General with Mr. Ajay Dwivedi, Panel Lawyer for the respondents/State in W.P.(S.)No.3899/2005.
Mr. Pankaj Shrivastava, counsel for the respondent in Contempt Pt.No.130/2006.

ORDER
(Passed on 12th of October, 2006)

These are two petitions, i.e., Writ Petition (S.) No.3899 of 2005 and Contempt Petition No.130 of 2006. The contempt petition arises in the writ petition. Thus, the writ petition and the contempt petition are being disposed of by this common order.

63

2. The original application was filed before the State Administrative Tribunal, Bench at Raipur, impugning the transfer order dated 24-9-2001 (Annexure A-1), whereby the petitioner, who was working on the post of Assistant Professor at Government Girls College, Durg, was transferred to the Government College, Patan, District Durg.

3. After admitting the petition on 6-10-2001, the Tribunal, by its order dated 12-10-2001, granted *status quo* with regard to the posting of the petitioner as on 29-9-2001. Learned counsel for the petitioner submits that despite there being the said order of *status quo*, a transfer order dated 30-6-2006 (Annexure C-3 in Contempt Petition No.130 of 2006) was passed transferring the petitioner to Government College, Saja, District Durg. However, no effect to the said order dated 30-6-2006 was given.

4. As a matter of fact, the petitioner, by way of interim order dated 12-10-2001, remained posted on the same place, i.e., Government Girls College, Durg for about five years. The petitioner could not continue at one place forever.

5. It is well settled principle of law that transfer is an incident of service and it is for the employer to decide as to where a particular officer/employee be posted keeping in view public interest as well as administrative exigency. This Court has limited jurisdiction to interfere with the transfer matters and this Court can interfere only with the case of proved *mala fide*, non-competence of authority passing the transfer order and transfer order not being in conformity with the rules and

69

regulations. None of the above grounds are available to the petitioner. In the facts and circumstances of the case, it is not necessary to examine validity of the transfer orders at this stage. However, the respondents – authorities are directed not to insist on compliance of the transfer orders dated 24-9-2001 and 30-6-2006.

6. Accordingly, the writ petition stands disposed of and the contempt petition is dismissed. Notice to the respondent in the contempt petition is discharged. However, the respondents – authorities are at liberty to pass appropriate order for posting the petitioner in public interest and administrative exigency, in accordance with law. No order as to costs.

7. A copy of this order be placed on the record of the contempt petition.

Sd/-
Satish K. Agnihotri
Judge

Gopal